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EXAMINER

REILLY, SEAN M

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/043,426	Applicant(s) ANDERSON ET AL.	
	Examiner Sean Reilly	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on November 7, 2005. New claims 30-51 are presented for further examination. All previously pending claims have been cancelled.

Specification

1. Applicant's amendments to the specification as filed July 14, 2005 are accepted and entered into the record.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 30-34 and 42-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Scholl et al. (U.S. Patent Number 5,742,762; hereinafter Scholl).
3. Regarding claim 30, Scholl discloses a method of remotely retrieving the state of at least one enterprise device, said method comprising:

- providing a reporting and maintenance computer system (Figure 3, Network Management Gateway);
- connecting a superintendent system to the reporting and maintenance computer system (Figure 3, Web Server), said connecting producing a first communications channel (Figure 3, Request and response link);
- connecting an enterprise to the reporting and maintenance computer system, the enterprise including at least one enterprise device that can be enabled to send status messages (Figure 3, Managed Network systems 9);
- receiving enterprise device status requests from the superintendent system at the reporting and maintenance computer system (Col 6, lines 9-15);
- forming responses to enterprise device status requests at the reporting and maintenance computer system (Col 6, lines 15-21 and 32-40); and
- sending the responses from the reporting and maintenance computer system to the superintendent system (Col 6, lines 40-41);
- translating communications at the reporting and maintenance computer system between a first protocol (SNMP) and a notification channel protocol (HTTP or TCP/IP), the first protocol being used for communications between the reporting and maintenance computer system and at least one enterprise device (i.e. the managed network systems communicate using SNMP), and the second protocol being used for communications between the reporting and maintenance computer system and the superintendent system by way of a notification channel (connection between the

Network management gateway and web server, Figure 3) (see inter alia, Request Col 6, lines 6-8, 15-21 and Response Col 6, lines 32-40).

4. Regarding claim 42, Scholl discloses a method for determining the state of a remotely located enterprise, comprising:

- accessing a reporting and maintenance system (Figure 3, Network Management Gateway) (Col 6, lines 6-15),
- the reporting and maintenance system being operably connected to communicate with enterprise devices (Managed Network Elements) in an enterprise (Managed Network) (Figure 3).
- sending a request to the reporting and maintenance system requesting the status of a particular enterprise device over a notification channel (Col 6, lines 6-15);
- receiving a response from the reporting and maintenance system including the status of the particular enterprise device (Col 6, lines 32-36); and
- providing a visual indication of the status of the particular enterprise device (web page displayed) (Col 6, lines 37-45).

The following limitations, *having at least two redundant servers, a control unit whereby the power of the servers may be controlled, a cabinet restricting access to the servers, an electronic door lock remotely and locally controllable, two temperature sensors monitoring the temperature of the air inside and outside the cabinet, an alarm, and a camera*, merely restrict the reporting and maintenance system *structure*. However, the reporting and maintenance system *structure* has no bearing on the *method* for determining the state of a remotely located enterprise and is therefore arbitrary. Thus, a prior art rejection which 1) teaches the method steps of the

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claimed invention and 2) is capable of accessing a reporting maintenance system with the above defined structure, is proper. In the instant case, the system disclosed by Scholl is capable of accessing a reporting maintenance system with the above-defined structure or any other computing device that has a structure capable of communication with other devices.

5. Regarding claims 43 and 47, Scholl discloses a method for remotely accessing and viewing information about an enterprise, comprising the steps of:

- accessing a transferential system (Figure 3, Network Management Gateway) (Col 6, lines 6-15);
- utilizing the transferential system to access an enterprise (Figure 3, Managed Networks) (Col 6, lines 15-24); and
- utilizing the transferential system to view information about the status and operation of the enterprise and its components (viewing the response web page) (Col 6, lines 32-45).

The transferential system characteristics (listed below) merely restrict the transferential system *structure*. However, the transferential system *structure* as claimed has no bearing on the *method* for determining the state of a remotely located enterprise and is therefore arbitrary.

Thus, a prior art rejection which 1) teaches the *method* steps of the claimed invention and 2) is capable of accessing a transferential system with the above defined structure, is proper. In the instant case, the system disclosed by Scholl is capable of accessing a transferential system with the structure listed below or any other computing device that has a structure capable of communication with other devices.

- transferential system characteristics: a server group including at least two servers, said servers providing redundancy of operation, at least one non-volatile memory device incorporated to said server group, server network hardware connected to said server group, said server network hardware including a gateway, said server network hardware being configurable to provide encrypted electronic communication between said server group and a superintendent system through said gateway, said server network hardware being further configurable to provide electronic communication between said server group and at least one enterprise device in communicative proximity, first computer readable instructions installed to said memory devices, said first instructions providing the function of receiving first messages from enterprise devices in at least one enterprise management protocol including version 1 of SNMP, second computer readable instructions installed to said memory devices, said second instructions providing the function of forwarding the information contained in the first messages to a superintendent system by a notification channel in preferential order by an assigned priority, third computer readable instructions installed to said memory devices, said third instructions providing the function of filtering the first messages, the filtering preventing the forwarding of some of the first messages, said filtering prescribed by policy, fourth computer readable instructions installed to said memory devices, said fourth instructions providing the function of assigning priority to the information in said first messages, fifth computer readable instructions installed to said memory devices, said instructions providing the function of translating the first received messages to a second protocol, a cabinet housing said server group, a

first network enabled temperature sensor, said first temperature sensor positioned to monitor the temperature of the air at the interior of said cabinet, a second network enabled temperature sensor, said second temperature sensor positioned to monitor the temperature of the air outside said cabinet, at least one door included in said cabinet whereby access to said server group is restricted when said doors are in closed position, locks included in said doors whereby said doors may be secured in a closed position, said locks enabled to unlock through an electronic command message from a superintendent system, a data entry device connected to said locks, said data entry device being mounted to said cabinet, said data entry device providing a human interface external to the cabinet enclosure; said locks enabled to be unlocked through said data entry device, a network enabled camera whereby a space in proximity to said server group may be monitored, an alarm in proximity to said server group, a network enabled power controller connected to and being configurable to control the power of at least one server of said server group, said power controller being configurable to accept network commands from a superintendent system, sixth computer readable instructions installed to said memory devices, said instructions providing the function of receiving second messages from a superintendent system through a notification channel, said second messages referencing at least one enterprise device, seventh computer readable instructions installed to said memory devices, said instructions providing the function of translating the second received messages to an enterprise management protocol utilized by the referenced enterprise devices, eighth computer readable instructions installed to said memory devices, said

instructions providing the function of forwarding the information in the second messages to the referenced enterprise devices in at least one enterprise management protocol including version 1 of the simple network management protocol, enterprise devices in electronic communication with said server group through said server network hardware, a superintendent system in electronic communication with said server group through said server network hardware, ninth computer readable instructions installed to said memory devices, said ninth instructions providing the function of accepting network parameters that define the boundaries of an enterprise, said ninth instructions also providing the function of discovering enterprise devices through said server network hardware using the network parameters, and tenth computer readable instructions installed to said memory devices, said tenth instructions providing the function of receiving a software upgrade from a superintendent system, said tenth instructions also providing the function of delivering the software upgrade to enterprise devices;

6. Regarding claim 31, Scholl discloses prior to said forming, querying an enterprise device for status; said forming produces a response using the result of said querying (Col 6, lines 15-21 and 32-40).
7. Regarding claim 32, Scholl discloses maintaining a database reflecting the state of enterprise devices (Figure 4, Component 14; Col 7, lines 2-4); said forming produces a response using the database (Col 6, lines 60-65).

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8. Regarding claim 33, Scholl discloses periodically polling enterprise devices for status and entering the polled status into the database (Col 7, lines 59-67).

9. Regarding claim 34, Scholl discloses wherein the first protocol is the SNMP (Col 6, lines 25-26).

10. Regarding claims 44-46 and 48-50, Scholl discloses using information gained about the enterprise to generate policy or to initiate a physical action. Scholl also discloses using the transferential system to make a modification to the enterprise. (configuration, fault, or performance management) (Col 9, lines 1-13).

11. Claims 37-40 and 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Barker et al. (U.S. Patent Number 6,363,421; hereinafter Barker).

12. Regarding claims 37 and 51, Barker discloses a method of monitoring the state of at least one enterprise device, said method comprising:

- ❑ providing a reporting and maintenance computer system being connectable to said enterprise devices (Figure 2, Element Management System Server);
- ❑ connecting a superintendent system to the reporting and maintenance computer system (Figure 2, Element Management System Client), said connecting producing a first communications channel (Figure 2);
- ❑ connecting an enterprise to the reporting and maintenance computer system, the enterprise including at least one enterprise device (Figure 2, Network Element) that can be enabled to send status messages (Traps, Col 11, lines 43-47);

- receiving first enterprise device status messages at the reporting and maintenance computer system from the enterprise devices within the enterprise, said first messages conforming to a first protocol (SNMP) (Col 11, lines 21-26);
- filtering the enterprise device status messages using a filter criteria (Col 17, lines 5-17); and
- sending second filtered enterprise device status messages from the reporting and maintenance system to the superintendent system over the first communications channel over a notification channel (Col 17, lines 5-17);
- translating first enterprise device status message from a first protocol to a notification channel protocol (HTTP or TCP/IP) used by the notification channel (see Figure 3 and connection between the Element management system server and element management system client) .

13. Regarding claim 38, Barker discloses the first communications channel is an encrypted channel (Col 8, lines 45-49).

14. Regarding claim 39, Barker discloses periodically polling enterprise devices for status (Col 4, lines 45-46).

15. Regarding claim 40, Barker discloses the first protocol is the SNMP protocol (Figure 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scholl et al. (U.S. Patent Number 5,742,762).

17. Regarding claim 8, Scholl fails to disclose using the HTTP protocol for communication between the reporting and maintenance computer system and at least one enterprise device. However Scholl does disclose that communication between the reporting and maintenance computer system and at least one enterprise device occurs using an appropriate protocol for communication (Col 6, lines 17-20). By using HTTP for communication between the reporting and maintenance computer system and the superintendent system Scholl discloses HTTP is an appropriate communication protocol and therefore also appropriate for communication between the reporting and maintenance computer system and at least one enterprise device. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to use the HTTP protocol from communication between the reporting and maintenance computer system and at least one enterprise device since Scholl discloses HTTP is an appropriate protocol (Col 6, lines 6-15).

18. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scholl et al. (U.S. Patent Number 5,742,762) and Examiner's official notice.

19. Regarding claim 10, Scholl fails to disclose the first communications channel is an encrypted channel however, the Examiner takes official notice that was well known in the art at the time of invention to encrypt communications over a network channel. It would have been

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obvious to one of ordinary skill in the art at the time of the invention to encrypt communications between the network management gateway and network management systems of Scholl, so communication between the devices is secure.

20. Claim 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barker et al. (U.S. Patent Number 6,363,421).

21. Regarding claim 41, Scholl fails to disclose using the HTTP protocol for communication between the reporting and maintenance computer system and at least one enterprise device. However it was well known in the art at the time of the invention to use the HTTP protocol for communication between two devices, as evidenced by Barker using HTTP for communication between the Element Management System Client and the Element Management Server (Figure 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the HTTP protocol for communication between the reporting and maintenance computer system and an enterprise device within the Barker system since the HTTP provides an efficient means of communication.

Response to Arguments

22. In response to Applicant's request for reconsideration filed on November 7, 2005, the following factual arguments are noted:

- a. Neither School nor Baker disclosed the use of a notification protocol.

In considering (a), Examiner respectfully disagrees with Applicant's argument. Applicant contends that since HTTP is a point to point protocol it cannot operate on a notification channel. Examiner disagrees with this rationale. First Applicant defines that a notification protocol "must contain at least two information fields," "one required field is an identifier for the sender" and "the other required field is a substantive message that is meaning to the destination" (see Applicant specification ¶ 29). Certainly the HTTP protocol meets these broad requirements. Further the HTTP communication in the systems of Scholl and Baker occur over a TCP/IP connection which is considered a notification channel insomuch that notifications are transmitted across the TCP/IP connection or channel.

Conclusion

23. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 3, 2006


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